

Senate General Welfare Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 2336

House Bill No. 2104*

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting in its entirety all the language following the enacting clause, and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Title 33, Chapter 3, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section _____. (a) (1) IF

1. a person is an officer or employee of the department, OR

2. a person is an officer or employee of a licensee of the department,

AND

3. the person or the person's spouse, parent, grandparent, brother, sister, or child has an ownership interest in a residential facility which is not publicly held or an ownership interest in a business which is not publicly held that owns or manages a residential facility that provides mental health or mental retardation services to persons OR

4. any individual or combination of individuals named in item 3, above, has an ownership interest of at least thirty-five (35) percent in a residential facility which is publicly held that provides mental health or mental retardation services to persons, OR

5. any individual or combination of individuals named in item 3, above, has an ownership interest of at least thirty-five (35) percent in a business that is publicly held that owns or manages a residential facility that provides mental health or mental retardation services to persons,

THEN

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6. the person must disclose the interest to the department or licensee,

AND

7. the person may not serve in a capacity of decision making or influence or responsibility for the direct referral or placement of persons to any residential facility that provides mental health or mental retardation services.

(b) If a person violates subsection (a), the commissioner shall assess a civil penalty of fifteen hundred dollars (\$1,500) per incident against such person for each violation. A penalty shall be assessed only after an informal hearing is held in the same manner as an informal hearing is held prior to the suspension of a license under §4-5-322(d). If services to a recipient of mental health or mental retardation services have been provided in violation of this act, the commissioner may:

(A) require transfer of the recipient of services to another provider of services as soon as is reasonably practical;

(B) authorize the recipient of services to remain with the provider of services if the commissioner determines it to be in the best interests of the recipient of services to remain with the provider of services;

(C) restrict the referral of other recipients of services to such provider of services; or

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(D) impose such sanctions listed in (A)--(C), above, in any combination or impose any other appropriate sanctions in the discretion of the commissioner.

(c) On the effective date of this act any officer or employee who is not in conformity with subsection (a) shall conform to its terms. After the effective date of this act, any person to whom this act applies must disclose such information before being hired or as a part of a contract entered into with a provider of mental health or mental retardation services. Failure to disclose such information shall subject the person to removal from the position held and the contract to cancellation or renegotiation.

(d) If a person is relieved of such decision making authority or responsibility under this act, the personnel records of the officer or employee shall state that the officer or employee was relieved of such authority or responsibility solely to conform to this act.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.